THE HONOURABLE SRI JUSTICE N.V.RAMANA

Writ Petition No.15780 of 2006

Dated: 31st July, 2006

Between:

V.B. Sambasiva Rao

…..PETITIONER

AND

The Regional Manager,
APSRTC., Guntur Region,
Guntur District & another.

….RESPONDENTS

THE HONOURABLE SRI JUSTICE N.V.RAMANA

W.P.No.15780 of 2006

ORDER:

This writ petition is filed assailing the action of the 2nd respondent - Depot Manager, A.P.S.R.T.C, Guntur District in issuing the proceedings No.1/2(15)/2003-GNT-I, dated 05-07-2004 by which the petitioner who is a Conductor was imposed a major punishment of deferment of annual increment for a period of one year with cumulative effect, without issuing show cause notice and without asking for comments from the petitioner on enquiry report.

The brief facts leading to the filing of the writ petition are as follows: The petitioner is working as a Conductor at respondent-Depot. Disciplinary proceedings were initiated against him, on the ground that the petitioner has failed to anticipate the possible occurrence of accident, which resulted in the death of one lady passenger, for which the petitioner submitted a detailed explanation. However, without considering the explanation submitted by the petitioner enquiry was conducted. On the basis of report submitted by the enquiry officer, without issuing a show-cause notice and without asking comments on enquiry report the impugned proceedings dated 05.07.2004 were issued straight away imposing the punishment of stoppage of annual increment for a period of one year, with cumulative effect, and explanation was also sought from the petitioner, as to why the period of suspension shall not be treated, as not on duty. Aggrieved by the said order dated 05.07.2004, the petitioner filed appeal, which was rejected on 11-10-2004, against which a review petition to the 1st respondent was preferred, but in vain.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

The relevant portion of the impugned order dated 05.07.2004 of the respondent reads thus:

> *"I, therefore, hereby ordered that your annual increment when next falls due be postponed for a period of one year with cumulative effect.".*

Admittedly, the 2nd respondent followed a peculiar procedure of initiating the disciplinary proceedings. An enquiry was conducted and on the basis of the enquiry report submitted by the enquiry officer, the impugned order was passed straight away without issuing show-cause notice. This peculiar practice of inflicting punishment on the basis of enquiry report without issuing show-cause notice was deprecated by this Court in W.P.No.18299 of 2005, dated 5-9-2005, and the counsel for the petitioner and the Standing Counsel for the respondents agreed for disposal of the writ petition in terms of the said Judgment.

The relevant portion of the Judgment in W.P.No.18299 of 2005, dated 5-9-2005 is at Paragraph 4, which reads as under.

> *"Strictly speaking, the impugned order deserves to be set aside, and the matter needs to be remanded. However, having regard to the fact that nearly six years have elapsed, this Court does not find it proper, to subject the petitioner to another set of proceedings. Taking the totality of the circumstances, into account, the punishment of stoppage of increment shall be treated, as the one without cumulative effect. However, the petitioner shall not be entitled for any monetary benefit, up to the date of this order, on account of the modification of the punishment".*

In the above view of the matter, this writ petition can also be disposed of in terms of the judgment of this Court in W.P.No.23114 of 2005 directing the respondents as is being done hereunder.

The respondents are directed to treat the punishment of stoppage of increment as the one without cumulative effect. However, the petitioner shall not be entitled for any monetary benefit, up to the date of this order, on account of the modification of the punishment.

The writ petition is accordingly disposed of. No costs.

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(N.V. RAMANA, J.)

Date:31st July, 2006.
ES/GRK